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Secretary William F. Caton
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Washington, DC 20554
by Federal Express

Justitiariat

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Az.: 107.306/1 Ga/ku136
BITTE STETS ANGEBEN !

Köln, 20. August 1997

Comments Regarding DBS Public Interest Rulemaking

Dear Mr. Caton,

As we have been informed by our Embassy in Washington DC, our letter of March 14 th 1997 regarding DBS Public Interest Rulemaking has not been received by you. I am pleased to enclose a copy of this letter.

I would be most grateful if you could kindly take into account at any further proceeding that we have sent this letter already in March 1997.

Yours faithfully

Thomas Gardemann
Legal Advisory Dept.

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Federal Communications Commission
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Orig. u. Kop. ab: 19. März 1997	
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BITTE STETS ANGEBEN!

Courtesy copy to
Brian Carter
2000 M st. NW
Suite 509
Washington, DC 20554

Köln, 14. März 1997

Comments Regarding DBS Public Interest Rulemaking

Dear Mr. Caton,

As a producer and distributor of international public service television and radio programming in the U.S. and worldwide, Deutsche Welle offers these comments as they relate to MM Docket No. 93-25: Implementation of Section 25 of the Television Consumer Protection and Competition Act of 1992, Direct Broadcast Satellite Service Obligations.

Specifically we would like to comment on the question raised in the notice for comments (FCC 97-24) issued January 31, 1997 which are also discussed in paragraph 43 of MM Docket No. 93-25, in the matter of Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992.

Those questions addressed the issue of if and how the FCC will define "noncommercial broadcasters", and what other entities, if any, must be afforded access to channel capacity under section 25 (b)(3) of the Cable Act.

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Introduction

Deutsche Welle Television is a public broadcasting institution in Germany with studios in Berlin, Cologne, Bonn, Brussels, Moscow and Washington. It is publicly funded, and like the Corporation for Public Broadcasting in the United States, is insulated from control by any political entity. Deutsche Welle builds bridges of information, culture, dialogue and international understanding through its 24-hour television broadcasts which are seen around the world. Communication is its journalistic function. Currently Deutsche Welle provides this 24 hour service in three languages: 12 hours in German, 10 in English and 2 in Spanish. The service has a clearly defined profile as a news and information channel, comprising news broadcasts, feature magazines and documentaries on politics, the economy, culture, society and sport.

Who Should Qualify

With a clear mandate to provide a noncommercial, global public service, Deutsche Welle feels that the Commission should view as broadly as possible the issue of what entities should qualify and be afforded access to DBS channel capacity under section 25 (b)(3) of the Cable Act.

We hope the Commission will open the qualifications of public service providers to include international noncommercial public broadcasters such as Deutsche Welle. We would argue against narrowly defining these qualifications to include only domestic entities.

We note that in the House Report on Section 25(b)(1), public service entities included "any entity to serve the disparate needs of specific communities of interest, including linguistically distinct groups, minority and ethnic groups, and other groups"¹. Unfortunately these public service uses were not retained in Section 25(b) and, instead, the Conferees inserted a narrower definition of "Noncommercial Educational and Informational Programming" Section 25(b)(5)(B) states that "the term national educational programming supplier" includes any qualified noncommercial educational television station, other public telecommunication entities, and public or private

¹ House Committee on Energy and Commerce, H.R.Rep.No.102-628, 102nd Cong. 2D Sess 124 (1992) at 124.

educational institutions.

Because these organizations are grouped as "national" educational suppliers, we fear that Deutsche Welle programs would not meet the criteria for public service, and could not be considered by a DBS provider to meet the reserved channel capacity requirements for public service providers.

We are sure that in providing this definition, the Conferees did not intend to exclude organizations such as Deutsche Welle and we hope that the Commission will either broaden the definition to include international noncommercial broadcasters, or as suggested in paragraph 44 of MM Docket No. 93-25, question whether any definitions of the term "noncommercial educational and informational programming" is necessary.

Deutsche Welle has demonstrated that quality international programming in a variety of languages is desired by millions of American viewers. Through the free distributions of our programs on PBS stations, on US cable channels and in universities and other institutions, Deutsche Welle already provides an important public service within the US media.

However, like public television itself, the service is not a commercially viable product, and depends on the public service mandates of many institutions to gain access to broadcast and cable distributors. As the Direct Broadcast Satellite service begins to flourish in the US, we hope the Commissions will allow Deutsche Welle to reach the millions of new American households discovering the expanded capacity of Satellite program delivery. The Commission can do this by assuring that the scope of public service programming is defined in such a way as to include Deutsche Welle and similar international noncommercial broadcasters to qualify for inclusion in the 4 to 7 percent channel capacity rules for DBS providers.

Yours faithfully


Dr. Klaus-Jürgen Lange
Legal Adviser